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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/096,560	06/12/1998	RAYMOND WALDEN BENNETT III	A00424(AMT-9	1956
25007 7590 08/15/2007 LAW OFFICE OF DALE B. HALLING, LLC 655 SOUTHPOINTE CT, SUITE 100 COLORADO SPRINGS, CO 80906			EXAMINER CUMMING, WILLIAM D	
			ART UNIT 2617	PAPER NUMBER
			MAIL DATE 08/15/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b>	Application No. 09/096,560	Applicant(s) BENNETT, ET AL	
	Examiner WILLIAM D. CUMMING	Art Unit 2617	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 27 July 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): The 35 USC §103 rejection of claim 19.

6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 19.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 1-18.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_

13. ☐ Other: \_\_\_\_\_.

WILLIAM D. CUMMING/  
Primary Examiner  
Art Unit: 2617

Continuation of 11. does NOT place the application in condition for allowance because: The analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, for a court can take account of the inferences and creative steps that a person of ordinary skill in the art would employ. The obviousness analysis cannot be confined by a formalistic conception of the words teaching, suggestion, and motivation, or by overemphasis on the importance of published articles and the explicit content of issued patents. The diversity of inventive pursuits and of modern technology counsels against limiting the analysis in this way. In many fields it may be that there is little discussion of obvious techniques or combinations, and it often may be the case that market demand, rather than scientific literature, will drive design trends. Granting patent protection to advances that would occur in the ordinary course without real innovation retards progress and may, in the case of patents combining previously known elements, deprive prior inventions of their value or utility. One of the ways in which a patent's subject matter can be proved obvious is by noting that there existed at the time of invention a known problem for which there was an obvious solution encompassed by the claims. When there is a design need or market pressure to solve a problem and there are a finite number of identified, predictable solutions, a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense. In that instance the fact that a combination was obvious to try might show that it was obvious under 35 USC §103. KSR INTERNATIONAL CO. v. TELEFLEX INC. 82 USPQ2d 1385.

After failing arguments by attorney filed in the previous response that no references show wireless local loop, now applicant's attorney says, again, none of the references have a security controller. Sizer, et al clearly states "It would also be desirable if such a unit could also control other appliances within the premises so that the unit not only controls network functions in the premises phone, but also controlled other appliances contained within a premises, such as coffee pots, lights, and other appliances. A busy traveller coming in after a trip, or seated at a desk could quickly retrieve desired messages, as well as control various appliances within the home such as lights, coffee pots, toasters, stereos, security systems, thermostats and locks."

From Launey, et al clearly from it's abstract, "A system for and a method of providing an expandable home automation controller is disclosed which supports multiple numbers and multiple different types of data communications with both appliances and subsystems within the home as well as systems external to the home. The system is based upon a central processor, such as a microprocessor-based computer, and is connected by means of a data bus to control the various products and subsystems within a home or commercial building, such as lighting systems, security systems, various sensors, multiple external terminals, as well as to allow for the input of commands by a variety of means such as touchscreens, voice recognition systems, telephones, custom switches or any device capable of providing an input to a computer system. The system functions can be readily controlled by the user utilizing a high resolution graphics display and associated touchscreen interface." AND, "The method of the present invention is carried out by the use of a Home Environment Automated Real-time Transactor (HEART) which is a standardized, modular, software program that is configured for each installation. Secondary processors are utilized, under HEART control, to relay information to the central 80286-based microcomputer or central processor, or to translate central processor commands into commands their dedicated devices can understand. A star hardware topology is currently utilized. The secondary processors manage the voice recognition and voice synthesis subsystems, telephone communication subsystems, touchscreen subsystems, hand-held remote control unit communications, input/output control and monitoring, security/fire safety and monitoring and other intelligent subsystems such as lighting, audio, video and HVAC."

All the invention elements were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would yielded predictable results to one of ordinary skill in the art at the time of the invention. KSR INTERNATIONAL CO. v. TELEFLEX INC. 82 USPQ2d 1385.

The invention would have been obvious because the substitution of one known element for another would have yielded predictable results to one of ordinary skill in the art at the time of the invention. KSR INTERNATIONAL CO. v. TELEFLEX INC. 82 USPQ2d 1385.

Regarding claims 8, speaking an access code, speech recognition code and access code being recognized and belongs to sex of approved access code is well known in the art and the invention would have been obvious because the technique for improving a particular class of devices was part of the ordinary capabilities of a person of ordinary skill in the art, in view of the teaching of the technique for improving in other situations. KSR INTERNATIONAL CO. v. TELEFLEX INC. 82 USPQ2d 1385. The invention would have been obvious because "a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. If this leads to the anticipated success, it is likely the product not of innovation but of ordinary skill and common sense." KSR INTERNATIONAL CO. v. TELEFLEX INC. 82 USPQ2d 1385. Prior art is not limited to the references being applied. Prior art includes both the specialized understanding of one ordinary skill in the art and the common understanding of the layman. Examiners may rely on, for example, official notice, common sense, design choice and ordinary ingenuity. Dann v. Johnston, 189 USPQ 257; Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. 82 USPQ2d 1687; KSR INTERNATIONAL CO. v. TELEFLEX INC. 82 USPQ2d 1385..